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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,879	08/18/2003	David Morrow	WLI 1063 PUS	3318

7590

05/16/2005

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EXAMINER

CHAMBERS, MICHAEL S

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/642,879

Applicant(s)

MORROW ET AL.

Examiner

Mike Chambers

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 19-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 19-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Election/Restrictions***

With regards to the withdrawal of claims: Although the previous office action indicated claims 9-15 were withdrawn, this was a typographical error. The applicant's response showing claims 9-18 as withdrawn is correct.

Although elections to a restriction requirement may be made over the phone, there is a requirement that the election be affirmed in the written response to the office action.

*Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.*

Since the response clearly showed the elected and withdrawn claims, there was a merely a need to have a written response in the record.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

In lines 8 and 9: A reference is made to "said metal tube". This lacks proper antecedent basis. It is not clear if the "metal tube" refers to the one-piece tube claimed or a new tube. Since dependent claim 2 includes the limitation "metal material" it will be assumed the inclusion of this limitation in claim 1 is a typographical error.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hoult  
(3702702). Hoult discloses

a hollow tube having a generally uniform dimension along its length and having an interior surface and an exterior surface, said hollow tube has a first thickness defined by a distance between said interior surface and said exterior surface at a first location along said tube and a second thickness defined by a distance between said interior surface and said exterior thickness at a second location along said hollow metal tube; wherein said first thickness has a greater magnitude than said second thickness (fig 3).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2- 8, and 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoult in view of CPSC. Hoult fails to disclose the use of a metal handle. The use of metal handles is well known in the art. CPSC discloses a titanium lacrosse handle. It would have been obvious to one of ordinary skill in the art to have employed the material of the titanium lacrosse handle of CPSC with the device in order to provide a lightweight and sturdy device.

As to claim 3 : Hoult discloses a top and bottom portion (fig 1 and 5).

As to claim 4 : Hoult discloses a top portion with a first thickness substantially uniform (fig 1 and 5).

As to claim 5 : Hoult discloses a bottom portion with a second thickness substantially uniform (fig 1 and 5).

As to claim 6 : Hoult discloses a lacrosse handle. Hoult discloses the elements of claim 6, however it fails to clearly disclose the use of a taper. The tapering is a matter of design choice. The specification provides no unexpected results in using a tapering shaft. It would have been obvious to one of ordinary skill in the art to have selected an appropriate taper in order to improve the assembly method used and increase the control of the player.

As to claim 7 : Hoult discloses a lacrosse handle (fig 1 and 5). This is a product by process claim which is met by the structure of Hoult.

As to claims 8 and 24: CPSC discloses a titanium handle (paragraph 3).

As to claims 19 and 23 : See claim 2 rejection (fig 1 and 5).

As to claims 20, 21 and 25: Hoult discloses a first and second thickness (fig 5).

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As to claims 22 and 26: Hoult discloses a bottom and top half (fig 5).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

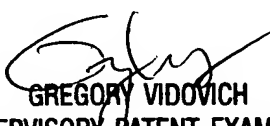
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is (571) 272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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May 11, 2005

  
GREGORY VIDOVICH  
SUPERVISORY PATENT EXAMINER  
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